

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
ALFONZO WILLIAMS,
Defendant.

Case No. 13-cr-00764-WHO-1

**ORDER REGARDING SAN
FRANCISCO POLICE DEPARTMENT
DISCOVERY**

In light of the broad-ranging subpoena of defendant Alfonzo Williams for gang-related discovery from the San Francisco Police Department (“SFPD”), the government’s decision to not assert that SFPD is its agent in this case, and SFPD’s general objections to production of the requested documents, I ordered SFPD to produce the requested documents to me and have now reviewed them. This Order describes in general terms the documents produced to me and directs the government and SFPD to take steps concerning them.

I have received the following in a series of disclosures by SFPD:

1. The Informant Management Manual (the 1998 and 2013 versions).
2. A CD with the February production (the “February CD”) that includes mugshots, a memo and photographs regarding graffiti, and PDFs of incident reports.
3. A CD with the March production (the “March CD”) that includes documents regarding four other incidents.
4. A binder with various printouts regarding the criminal histories of eight individuals.
5. A binder consisting primarily of field interrogation cards.
6. A binder containing a variety of photographs, memoranda, letters, internet investigations, internal confidential interviews and memoranda, and mugshots. Some of the documents in the binder were used during Sgt. Jackson’s testimony at the

1 *Daubert* hearings.

2 Accompanying the disclosures were declarations from Ms. Wagner and Sgt. Jackson. Ms.
3 Wagner set out some general objections to disclosure of the produced materials while Sgt. Jackson
4 described how he searched for the requested documents. Neither made particularized, document
5 by document objections. Unhelpfully, only the March CD is bates-numbered.

6 **I. THE INFORMANT MANAGEMENT MANUAL**

7 SFPD challenges production of the Informant Management Manual because, among other
8 reasons, it contains sensitive information that is not material because the government has
9 represented that it will not call any SFPD informants as witnesses. The defendants argue that the
10 Manual contains important document retention and other policies that may have been violated in
11 this case.

12 The defendants have not demonstrated that the entire Manual is relevant, but I agree with
13 them that the document retention aspects of the Manual may bear on the completeness of the
14 discovery that they have received, the investigations performed by SFPD that are relevant to this
15 case, and other relevant trial issues. Accordingly, I ORDER that SFPD produce within two weeks
16 the following in unredacted form: Section IV D.5-G in the 1998 Manual and Section IV B.4b-6,
17 E.1, F, and G in the 2013 Manual. It need not produce any other portion of the Manual at present.

18 Further, I direct that the government confirm that it will not call any witness who has been
19 an SFPD informant. Within 14 of the date of this Order, the government shall file a notice either
20 confirming that it will not call any witness who has been an SFPD informant, or stating that it
21 cannot so confirm at this time, in which case I will reconsider whether production of other
22 portions of the Manual is appropriate.

23 **II. THE OTHER DOCUMENTS**

24 SFPD has objected to the production of the other documents on a variety of grounds.
25 Given the lack of specificity in SFPD's responses, however, the showing Williams made prior to
26 issuance of the subpoena has not been rebutted. In arguing the factors set forth in *United States v.*
27 *Nixon*, 418 U.S. 683, 688 (1974), SFPD emphasized that defendants were on a fishing expedition.
28 But the documents sought are evidentiary and, in light of the government's failure to obtain them

1 from SFPD, they are not procurable reasonably in advance of trial by exercise of due diligence.
2 Williams asserts that the documents are relevant; no one has attempted to show otherwise, leading
3 to the conclusion that trial preparation is adversely affected by the failure to produce them. The
4 documents concern either the defendants or people who live in the same neighborhood as the
5 defendants and who appear to have been involved in incidents with the defendants. Accordingly, I
6 am only concerned at this point with whether a privilege would preclude production, and as to
7 that, SFPD has not objected in a way that allows me to evaluate the assertion of any privilege.

8 In addition to SFPD's failure to explain on an individualized basis why any particular
9 document should not be produced, it is also unclear which documents have been produced to the
10 defendants already. Although Sgt. Jackson indicated that SFPD no longer has documents given to
11 the government for the investigation and prosecution of this case, SFPD did produce to me
12 documents that were introduced during Sgt. Jackson's testimony. Given that some other
13 documents produced to me involve the named defendants, I assume that many of the documents
14 that I received have already been produced.

15 There are a handful of documents for which a privilege would obviously apply. Others
16 include civilian and witness names, about which the government has shown sensitivity throughout
17 this prosecution. That said, I am inclined to allow production of virtually all the documents under
18 the heightened protective order for attorney's and investigator's eyes only *unless* SFPD and/or the
19 government file what I expected weeks ago: a document by document objection to those
20 documents about which it has particular concerns.

21 I ORDER that SFPD and/or the government make any particularized objection within
22 fourteen days of the date of this Order. To repeat, generalized, non-document-specific objections
23 are not helpful. At the very least, the objections must identify the specific category of privileged
24 documents (e.g., documents regarding a particular incident or particular individual). In the
25 objections, SFPD or the government may disguise the identity of the person who is the subject of
26 the document. The objections shall not be filed under seal. No extensions will be granted – this
27 issue has been pending for too long as it is.

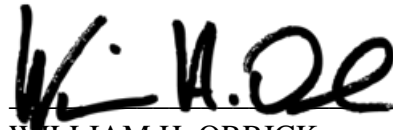
28 Defendants may respond to the objections seven days thereafter. I will hear argument on

May 6, 2016.

Williams's request that SFPD's motion to quash be sealed on the ground that it excerpts his sealed subpoena is GRANTED. *See* Dkt. No. 820. The Clerk shall SEAL the motion to quash, Dkt. No. 542, and the parties shall continue to treat Williams's subpoena as a sealed document.

IT IS SO ORDERED.

Dated: April 8, 2016

A handwritten signature in black ink, appearing to read "W. H. Orrick", written over a horizontal line.

WILLIAM H. ORRICK
United States District Judge

United States District Court
Northern District of California